

MEMORANDUM

December 15, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: BRIAN T. CHU
Senior Deputy County Counsel
General Litigation Division

RE: **Claim of David Lebental**

DATE OF
INCIDENT: July 13, 2006

AUTHORITY
REQUESTED: \$27,245.64

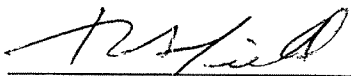
COUNTY Department of Public Works/Sewer
DEPARTMENT: Special District General Liability Trust Fund


CLAIMS BOARD ACTION:

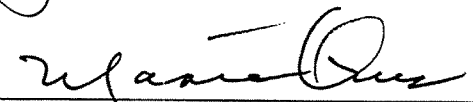
☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on December 27, 2006

SUMMARY

This is a recommendation to settle for \$27,245.64 the claim presented by David Lebental, seeking compensation for property damages to his home, caused by a sewer back-up into his house, which resulted from a sewer main line blockage on July 13, 2006.

LEGAL PRINCIPLE

The County may be held liable for inverse condemnation based on a claim for property damages caused by a sewer blockage.

SUMMARY OF FACTS

At approximately 8:25 p.m. on July 13, 2006, the County received a complaint of a sewer problem from the homeowner of 30590 Ganado Drive, in the City of Rancho Palos Verdes. A County sewer crew investigated the complaint and found that a sewer manhole down line from the house was overflowing. Additional investigation revealed that the main line was blocked by grease and roots. While the sewer crew worked toward removing the blockage, David Lebental's wife approached the sewer crew and reported that their home at 30513 Ganado Drive experienced a sewage backup at approximately 7:45 p.m. The sewage intruded into the lower level of the home and caused damage to the floor, walls and personal property.

DAMAGES

Mr. Lebental claims total damages categorized as follows:

Emergency Services	\$ 6,243.90
Interior Repairs	\$17,886.74
Cleaning/Electrical	\$ 2,264.00
Personal Property	<u>\$ 851.00</u>
TOTAL	\$27,245.64

In the event that this matter were to be litigated, and if he were to prevail on an inverse condemnation claim, Mr. Lebental additionally would be entitled to attorneys fees' and experts' costs.

EVALUATION

The sewer main line is maintained by the County and funded by the Special District General Liability Trust Fund. Main line inspections are performed twice each year to identify blockages and for as-needed cleaning.

Sections of main line with known maintenance concerns are placed on periodic cleaning schedules varying from every 30 days to 180 days, depending on the location. This main line has had several incidents of sewage backups over the past ten years. Its last inspection was performed on January 27, 2006, with no deficiencies along Ganado Drive noted. Prior to this incident, this section of main line was on a 90-day periodic cleaning schedule. Since the time of this incident, the main line has been placed on a 30-day periodic cleaning schedule.

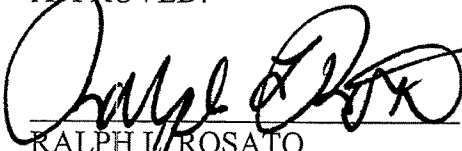
It is undisputed that sewage from the blocked main line backed-up into Mr. Lebental's house. Further, the prior sewer back-up history may support a contention that the main line should have been cleaned more frequently.

Mr. Lebental's damages have been reviewed and determined to be reasonable. If he were to file suit and prevail based on inverse condemnation, he would be entitled to recover attorneys' fees and expert costs that will significantly exceed the proposed settlement amount.

RECOMMENDATION

We join our third party administrator, Carl Warren & Company, in recommending settlement in the amount of \$27,245.64. The Department of Public Works concurs with this settlement.

APPROVED:

A handwritten signature in black ink, appearing to read "Ralph L. Rosato", is written over a horizontal line.

RALPH L. ROSATO
Assistant County Counsel
General Litigation Division

BTC:ac